

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 19**

BAXTER SENIOR LIVING, LLC

Employer

and

Case 19-RC-263602

**LABORERS INTERNATIONAL UNION OF
NORTH AMERICA (LIUNA), LOCAL 341,
AFFILIATED WITH ALASKA DISTRICT
COUNCIL OF LABORERS, AFL-CIO¹**

Petitioner

DECISION AND DIRECTION OF ELECTION

I. INTRODUCTION

On July 27, 2020,² Laborers International Union of North America (LIUNA), Local 341, affiliated with Alaska District Council of Laborers, AFL-CIO (the Petitioner), filed a petition pursuant to Section 9(c) of the National Labor Relations Act (the Act), seeking to represent certain employees of Baxter Senior Living, LLC (the Employer), at its assisted living facility in Anchorage, Alaska. On August 13, the parties entered into a stipulation which, among other things, contained a stipulated record and a waiver of the parties' right to a pre-election hearing. The parties agreed to a deadline of August 17 to allow for them to provide additional information related to this matter, and the Employer submitted additional arguments on that date.

The sole issue in this case is whether to conduct the election manually or by mail ballot. The Employer asserts that, with certain precautions to combat the possible spread of COVID-19, a manual election is the most appropriate method. The Petitioner does not contest the Employer's assertion. Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated the authority to decide this matter to me.

Having considered the parties' positions and the entire record, I am directing this election to be conducted by mail ballot. To give context for my discussion of this matter, I begin with background facts relating to the Employer's operations and the stipulated unit of employees. I then summarize the parties' positions with respect to the voting method for this case. Next, I review Board law on election methods and recent cases arising during the COVID-19 pandemic.

¹ I have corrected the Employer's and the Petitioner's names to conform with the parties' stipulated record.

² All dates are for the year 2020 unless otherwise noted.

Following that review, I discuss the application of Board law to the circumstances in this case. Lastly, I conclude with my findings.³

II. BACKGROUND

The Employer is an Alaska corporation with an office and place of business located at 4280 Baxter Road in Anchorage, Alaska, where it provides senior living and health care to its residents.⁴

The parties stipulated that any appropriate unit should include all full-time and regular part-time certified nursing assistant caregivers and resident caregivers employed by the Employer at its Anchorage, Alaska facility; and exclude all other employees, professional employees, managers and guards and supervisors as described in the Act.

III. THE PARTIES' POSITIONS

A. The Employer's Position

The Employer proposes to fully comply with General Counsel Memorandum GC 20-10 (issued July 6), which contains guidance for how the Regions may conduct manual elections during the COVID-19 pandemic.

For the polling location, the Employer proposes to hold the election in its third-floor lounge area, which has 4,000 square feet of space.

For voting times, the Employer initially proposed in its August 5 position statement two days of voting, with the voting sessions to last for two hours around the Employer's shift changes on each day. However, in its letter dated August 17, the Employer modified its proposal, proposing two days of voting, with three voting sessions on each day, and with each voting session lasting one hour at the beginning of each of the Employer's three shifts. Although the Employer did not propose specific times for these voting sessions, the record shows that the Employer's three shifts begin at 6 a.m., 2 p.m., and 10 p.m.

In arguing that COVID-19 does not present special circumstances warranting a mail-ballot election, the Employer notes that Alaska has one of the lowest COVID-19 infection rates in the country, and that those rates are dropping.

³ As to other preliminary matters, the parties stipulated that the Petitioner is a labor organization within the meaning of the Act, and that the petitioned-for unit is an appropriate unit. The parties have also stipulated that there is no contract bar or other bar in existence that would preclude the processing of this petition.

⁴ The parties stipulated that, based on a projection of the Employer's operations since October 23, 2019, the Employer will annually have gross revenues in excess of \$250,000, and will purchase and receive at its Anchorage, Alaska facility goods valued in excess of \$50,000 directly from suppliers outside of the State of Alaska.

The Employer also argues that mail balloting carries its own risks with respect to COVID-19. Citing to a CDC webpage titled “Running Essential Errands,”⁵ the Employer states that the Center for Disease Control and Prevention (CDC) has acknowledged that picking up mail poses a risk of contracting the virus.

Finally, the Employer asserts that mail balloting may disenfranchise voters due to an unreliable Postal Service or due to employees moving during the election, living with roommates, or having other uncertain living conditions. The Employer points to several online news sources for the proposition that the United States Postal Service may be unreliable. The Employer also notes that some mail to employees has been returned, and some employees opt to pick up their paychecks at the Employer’s facility.

B. The Petitioner’s Position

As noted above, the Petitioner does not contest the Employer’s position.

IV. BOARD LAW & RECENT CASES

It is well settled that the Board leaves decisions on the mechanics of an election, including the method, to the discretion of its Regional Directors. *Ceva Logistics U.S., Inc.*, 367 NLRB 628, 628 and cited cases (2011). In *San Diego Gas & Electric*, 325 NLRB at 1145 (1998), the Board articulated certain guidelines for its Regional Directors to consider when deciding whether to conduct a mail-ballot election:

[T]he Regional Director should take into consideration at least the following situations that normally suggest the propriety of using mail ballots: (1) where eligible voters are “scattered” because of their job duties over a wide geographic area; (2) where eligible voters are “scattered” in the sense that their work schedules vary significantly, so that they are not present at a common location at common times; and (3) where there is a strike, a lockout or picketing in progress.

In addition to the above, the Board recognized that its Regional Directors may consider “other relevant factors,” and that “extraordinary circumstances” may permit a mail-ballot election for reasons other than those the Board explained in its guidelines. *Ibid.*

Although the Board has expressed a general preference for manual balloting, it has never hesitated to ballot by mail when the circumstances warrant it. Indeed, the Board’s preference for manual elections is not to be interpreted as a suggestion that mail balloting is somehow inferior or a less reliable or effective means of determining employees’ representational desires. The Board noted as follows in *London’s Farm Dairy, Inc.*, 323 NLRB 1057, 1058 (1997):

[W]hile we agree with our dissenting colleague that the Agency has a proud long tradition of conducting elections by manual balloting and that most elections have been and are conducted manually, it has an equally long

⁵ “Running Essential Errands,” <https://www.cdc.gov/coronavirus/2019-ncov/daily-life-coping/essential-goods-services.html> (last accessed September 8, 2020).

history of conducting elections by mail. From the earliest days of the Act, the Board has permitted eligible voters in appropriate circumstances to cast their ballots by mail. See, for example, *Lykes Bros. S.S. Co.*, 2 NLRB 102, 108, 111 (1936); *United Press Assns.*, 3 NLRB 344, 352 (1937); *Pacific Greyhound Lines*, 4 NLRB 520, 539 (1937); *Pacific Lumber Inspection Bureau*, 7 NLRB 529, 534 (1938); *Salt River Valley Water Users Assn.*, 32 NLRB 460, 472 (1941); *Continental Bus Systems*, 104 NLRB 599, 601(1953); and *National Van Lines*, 120 NLRB 1343 (1958).

Additionally, the Board has recently denied employers' requests for review in other cases dealing with Regional Directors' decisions on the method for elections. In each of the cases listed below, the Board noted that the COVID-19 pandemic presented extraordinary circumstances warranting a mail-ballot election. The Board also noted in each of these cases that it "will continue to consider whether manual elections should be directed based on the circumstances then prevailing in the region charged with conducting the election; including the applicability to such a determination of the suggested protocols set forth in GC Memorandum 20-10."

1. In *Tredroc Tire Services*, 13-RC-263043 (August 19, 2020), the Board denied review of that Regional Director's decision to conduct a mail-ballot election, even though the employer proposed compliance with GC Memorandum 20-10 and a voter releasing plan that staggered voting into groups with only three voters per group.
2. In *Pace Southeast Michigan*, 07-RC-257046 (August 7, 2020), the Board denied review of that Regional Director's decision to conduct a mail-ballot election, even though the employer proposed holding the election in a large room with markings for social distancing, and providing plexiglass dividers, personal protective equipment (PPE), and hand sanitizer.
3. In *Sunsteel LLC*, Case 19-RC-261739 (August 4, 2020), the Board denied review of that Regional Director's decision to conduct a mail-ballot election, even though the employer proposed a voting area with separate entrances for entering and exiting; floor markings for foot traffic and for social distancing; scheduled release times for voters; sufficient spacing for safe distancing between the voting booth and the separate tables for the Board agent, observers, and ballot box; plexiglass barriers; and cleaning consistent with guidelines established by the Center for Disease Control and Prevention (CDC).

Lastly, in *Touchpoint Support Services*, Case 07-RC-258867 (May 18, 2020), the Board denied review of the Regional Director's decision to conduct a mail-ballot election during the COVID-19 pandemic. In requesting review, the employer raised issues concerning potential disenfranchisement of voters if ballots were delayed in the mail. The Board noted, "While such concerns could be relevant to whether a mail-ballot election is appropriate, the circumstances presented here fail to establish that the Regional Director abused her discretion." The Board further noted that actual evidence of disenfranchisement of voters could be raised in post-election objections.

V. DISCUSSION

Although the Board's longstanding policy is that elections should generally be conducted manually, a Regional Director may reasonably conclude, based on circumstances tending to make voting in a manual election difficult, to conduct an election by mail ballot. NLRB Casehandling Manual Part Two Representation Proceedings, Sec. 11301.2. As explained above, this includes four specific situations addressed by the Board: when voters are "scattered" over a wide geographic area; when voters are "scattered" in time due to their schedules; when voters are involved in strikes, lockouts, or picketing; and in situations involving extraordinary circumstances. *San Diego Gas & Electric*, 325 NLRB at 1145. The present case deals only with whether the public health concerns presented by the COVID-19 pandemic constitute extraordinary circumstances.

As further discussed below, I find that the continuing COVID-19 pandemic, particularly in Anchorage, constitutes extraordinary circumstances warranting a mail-ballot election in this case.

A. Response to the Employer's Arguments

Regarding the Employer's reliance on the low rates of COVID-19 in Alaska, I address those in the next section, below.

Although the Employer argues that mail balloting presents a risk of spreading COVID-19 through contact with mail, I do not find this persuasive. The CDC's webpage, "Running Essential Errands," cited to by the Employer, indeed recommends that individuals wash their hands or use hand sanitizer after collecting mail. While this recommendation may imply that COVID-19 could spread through contact with mail, the CDC has made no findings specific to transmission of COVID-19 in this way. Instead, the CDC states that the "the virus is thought to spread mainly from person-to-person," and "[t]he virus spreads easily between people." Although the CDC recognizes that "[t]he virus may be spread in other ways," and that it is continuing to learn more about how the virus is spread, the CDC notes that contact with a surface or object that has the virus on it "is not thought to be the main way the virus spreads."⁶

I am also unpersuaded by the Employer's arguments concerning the reliability of the United States Postal Service or the various living conditions of its employees. Although the Employer asserts that it has received returned mail meant for employees and that some employees prefer to pick up their checks at the Employer's facility, the record contains no evidence to substantiate these assertions. Nonetheless, and as the Board noted in *Touchpoint Support Services*, above, the Employer may raise matters of actual voter disenfranchisement, if applicable, through post-election objections.

⁶ "How COVID-19 Spreads," <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-covid-spreads.html> (last accessed September 8, 2020).

B. The Prevailing Circumstances of COVID-19 in the Region

As of the writing of this decision, the CDC's website shows that Alaska has had a total of 5,765 cases of COVID-19.⁷ The CDC's website also shows that Alaska is among the states and territories with lower rates of infections per 100,000 people.⁸ Additionally, Alaska's Department of Health and Social Services (ADHSS) has projected Alaska's estimated growth rate of new COVID-19 cases to be -0.5 percent.⁹

Despite the slowing of COVID-19 cases in the State of Alaska, the same cannot be said of the Municipality of Anchorage, where the Employer operates its business.

Anchorage was in a "Hunkering Down" phase from March 22 through April 26. In that phase, Anchorage closed non-critical businesses and required residents to stay at home as much as possible. On April 20, Anchorage adopted a phased approach in responding to the COVID-19 pandemic, which included the initial "Hunkering Down" phase and four subsequent phases, with each phase lifting restrictions on businesses, gatherings, and travel.¹⁰ Anchorage moved to "Phase 1: Easing," on April 27. Anchorage then moved to "Phase 2: Recovery" on May 11, and it moved to "Phase 3: Maintenance" on May 25. However, on August 28, Anchorage Mayor Ethan Berkowitz signed Emergency Order 14 v2, which returned Anchorage to a modified Phase 2 as of August 31.¹¹ In that Order, Mayor Berkowitz noted that although Anchorage had decreased its 14-day average from 21 new cases per 100,000 people to 12.5 new cases per 100,000 people, an average of more than 10 new cases per 100,000 people kept Anchorage in the "'RED' zone" and signified "widespread community transmission."

As of the writing of this decision, ADHSS shows that Anchorage has an estimated daily growth rate of 0.42 percent for new COVID-19 cases. ADHSS also shows Anchorage to be at a "high" alert level. Lastly, ADHSS appears to show an increase in the average daily case rate from when Mayor Berkowitz signed Emergency Order 14 v2, as Anchorage's seven-day average rate of new cases is 14.34 new cases per 100,000 people.

⁷ "United States COVID-19 Cases and Deaths by State," <https://covid.cdc.gov/covid-data-tracker/#cases> (last accessed September 8, 2020).

⁸ See link at fn. 7. As of this writing, the United States averages 1,910 COVID-19 cases per 100,000 people. Alaska averages 782 such cases per 100,000 people.

⁹ Alaska Coronavirus Response Hub, <https://coronavirus-response-alaska-dhss.hub.arcgis.com/> (last accessed September 8, 2020).

¹⁰ "SAFE ANCHORAGE: A Roadmap to Reopening the Municipality of Anchorage," <https://covid-response-moa-muniorg.hub.arcgis.com/pages/roadmap-to-reopening> (last accessed September 8, 2020).

¹¹ I have taken administrative notice of Mayor Berkowitz' Order.

Specific to assisted living facilities in Alaska, and according to ADHSS's website that provides guidance for specific groups, assisted living facilities fall under a grouping called "High Risk Populations."¹² The latest guidance for assisted living facilities issued on March 23.¹³ The guidance recommends that these facilities "[r]estrict all visitors" and that the facilities "determine how to communicate those limitations."

C. The Election Method for this Case

Under different circumstances, I would almost certainly direct a manual election in this case. However, based on all the above, I am directing a mail-ballot election. Here, I find that the upswing in the number of COVID-19 cases in Anchorage and the possibility of spreading COVID-19 in a workplace that deals with a high-risk population constitute extraordinary circumstances warranting a mail-ballot election. I also note that ADHSS's guidance to restrict all visitors to assisted living facilities could be an impediment to having a manual election.

VI. CONCLUSION

Based upon the entire record in this matter, and in accordance with the discussion above, I conclude and find as follows:

1. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.
2. The Petitioner is a labor organization within the meaning of Section 2(5) of the Act and claims to represent certain employees of the Employer.
3. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
4. The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

Included: All full-time and regular part-time certified nursing assistant caregivers and resident caregivers employed by the Employer at its facility located in Anchorage, Alaska.

Excluded: All other employees, professional employees, managers and guards and supervisors as described in the Act.

There are approximately 30 to 31 employees in the unit found appropriate.

¹² "COVID-19: Specific Groups," <http://dhss.alaska.gov/dph/Epi/id/Pages/COVID-19/populations.aspx> (last accessed September 8, 2020).

¹³ "COVID-19 Guidance for Long-Term Care, Assisted Living and Residential Facilities," http://dhss.alaska.gov/dph/Epi/id/SiteAssets/Pages/HumanCoV/DHSS_LTCF_COVID19-Guidance_20200323.pdf (last accessed September 8, 2020).

VII. DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. Employees will vote whether they wish to be represented for purposes of collective bargaining by Laborers International Union of North America (LiUNA), Local 341, affiliated with Alaska District Council of Laborers, AFL-CIO.

A. Election Details

The election will be conducted by United States mail. On Monday, September 28, 2020 the ballots will be mailed to voters by a designated official from the National Labor Relations Board, Region 19. Voters must sign the outside of the envelope in which the ballot is returned. Any ballot received in an envelope that is not signed will be automatically void.

Those employees who believe that they are eligible to vote and did not receive a ballot in the mail by Monday, October 5, 2020, should communicate immediately with the National Labor Relations Board by either calling the Region 19 Office at (206) 220-6300 or our national toll-free line at 1-844-762-NLRB (1-844-762-6572).

Voters must return their mail ballots so that they will be received in the National Labor Relations Board, Region 19 office by 12:00 p.m. (noon) PDT on Monday, October 26, 2020. Pursuant to the parties' Stipulation, no ballots will be counted that are received after the due date. All ballots will be comingled and counted by an agent of Region 19 of the National Labor Relations Board on Wednesday, October 28, 2020, at 1:00 p.m. with participants being present via electronic means. No party may make a video or audio recording or save any image of the ballot count. If, at a later date, it is determined that a ballot count can be safely held in the Regional Office, the Region will inform the parties with sufficient notice so that they may attend.

B. Voting Eligibility

Eligible to vote are those unit employees who were employed by the Employer during the payroll period ending **Monday, August 31, 2020**, including employees who did not work during that period because they were ill, on vacation, or were temporarily laid off.

Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, employees engaged in an economic strike that commenced less than 12 months before the election date, who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military service of the United States may vote by mail in the same manner and pursuant to the same voting schedule as established herein for all other Unit employee voting.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period for eligibility; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

C. Voter List

As required by Section 102.67(l) of the Board's Rules and Regulations, the Employer must provide the Regional Director and parties named in this decision a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters.

To be timely filed and served, the list must be *received* by the Regional director and the parties by **September 15, 2020**. The list must be accompanied by a certificate of service showing service on all parties. **The Region will no longer serve the voter list.**

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015.

When feasible, the list shall be filed electronically with the Region and served electronically on the other parties named in this decision. The list may be electronically filed with the Region by using the E-filing system on the Agency's website at www.nlr.gov. Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions.

Failure to comply with these requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

D. Posting of Notices of Election

Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Notice of Election accompanying this Decision in conspicuous places, including all places where notices to employees in the unit found appropriate are customarily posted. The Notice must be posted so all pages of the Notice are simultaneously visible. In addition, if the Employer customarily communicates electronically with some or all of the employees in the unit found appropriate, the Employer must also distribute the Notice of Election electronically to those employees. The Employer must post copies of the Notice at least 3 full working days prior to 12:01 a.m. of the day of the election, and copies must remain posted until the end of the election. For purposes of posting, working day means an entire 24-hour period excluding Saturdays, Sundays, and holidays. However, a party shall be estopped from objecting to the nonposting of notices if it

is responsible for the nonposting, and likewise shall be estopped from objecting to nondistribution of notices if it is responsible for the nondistribution.

Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.

RIGHT TO REQUEST REVIEW

Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this Decision until 14 days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is not precluded from filing a request for review of this decision after the election on the grounds that it did not file a request for review of this Decision prior to the election. The request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

A request for review may be E-Filed through the Agency's website but may not be filed by facsimile. To E-File the request for review, go to www.nlr.gov, select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street, SE, Washington, DC 20570-0001. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board. If a request for review of a pre-election decision and direction of election is filed within 10 business days after issuance of the decision and if the Board has not already ruled on the request and therefore the issue under review remains unresolved, all ballots will be impounded. Nonetheless, parties retain the right to file a request for review at any subsequent time until 10 business days following final disposition of the proceeding, but without automatic impoundment of ballots.

Dated: September 11, 2020

Ronald K. Hooks

RONALD K. HOOKS, REGIONAL DIRECTOR,
NATIONAL LABOR RELATIONS BOARD
REGION 19
915 2ND AVENUE, ROOM 2948
SEATTLE, WA 98174-1078



United States of America
National Labor Relations Board
NOTICE OF ELECTION



19-RC-263602

PURPOSE OF ELECTION: This election is to determine the representative, if any, desired by the eligible employees for purposes of collective bargaining with their employer. (See VOTING UNIT in this Notice of Election for description of eligible employees.) A majority of the valid ballots cast will determine the results of the election. Only one valid representation election may be held in a 12-month period.

SECRET BALLOT: The election will be by secret ballot carried out through the U.S. mail under the supervision of the Regional Director of the National Labor Relations Board (NLRB). A sample of the official ballot is shown on the next page of this Notice. Voters will be allowed to vote without interference, restraint, or coercion. Employees eligible to vote will receive in the mail *Instructions to Employees Voting by United States Mail*, a ballot, a blue envelope, and a yellow self-addressed envelope needing no postage.

ELIGIBILITY RULES: Employees eligible to vote are those described under the VOTING UNIT on the next page and include employees who did not work during the designated payroll period because they were ill or on vacation or temporarily laid off. Employees who have quit or been discharged for cause since the designated payroll period and who have not been rehired or reinstated prior to the date of this election are not eligible to vote.

CHALLENGE OF VOTERS: An agent of the Board or an authorized observer may question the eligibility of a voter. Such challenge must be made at the time the ballots are counted.

AUTHORIZED OBSERVERS: Each party may designate an equal number of observers, this number to be determined by the NLRB. These observers (a) act as checkers at the counting of ballots; (b) assist in identifying voters; (c) challenge voters and ballots; and (d) otherwise assist the NLRB.

METHOD AND DATE OF ELECTION

The election will be conducted by United States mail. The mail ballots will be mailed to employees employed in the appropriate collective-bargaining unit. At 4:45 PM on Monday, September 28, 2020, ballots will be mailed to voters from the National Labor Relations Board, Region 19, 915 2nd Ave Ste 2948, Seattle, WA 98174-1006. Voters must sign the outside of the envelope in which the ballot is returned. Any ballot received in an envelope that is not signed will be automatically void.

Those employees who believe that they are eligible to vote and did not receive a ballot in the mail by Monday, October 5, 2020, should communicate immediately with the National Labor Relations Board by either calling the Region 19 Office at (206)220-6300 or our national toll-free line at 1-844- 762-NLRB (1-844-762-6572).

All ballots will be commingled and counted by a designated Board Agent of the National Labor Relations Board at 1:00 PM on Wednesday, October 28, 2020, likely via a videoconference to be arranged by Region 19. In order to be valid and counted, the returned ballots must be received in the Region 19 Office, 2948 Jackson Federal Building, 915 Second Ave, Seattle, WA 98174-1009 by 12:00 PM PST on Monday, October 26, 2020.

WARNING: This is the only official notice of this election and must not be defaced by anyone. Any markings that you may see on any sample ballot or anywhere on this notice have been made by someone other than the National Labor Relations Board, and have not been put there by the National Labor Relations Board. The National Labor Relations Board is an agency of the United States Government, and does not endorse any choice in the election.



United States of America
National Labor Relations Board
NOTICE OF ELECTION





VOTING UNIT

EMPLOYEES ELIGIBLE TO VOTE:

Those eligible to vote are: All full-time and regular part-time certified nursing assistant caregivers and resident caregivers employed by the Employer at its facility located in Anchorage, Alaska who were employed during the payroll period ending August 31, 2020.

EMPLOYEES NOT ELIGIBLE TO VOTE:

Those not eligible to vote are: All other employees, professional employees, managers and guards and supervisors as described in the Act.

	UNITED STATES OF AMERICA National Labor Relations Board 19-RC-263602	
OFFICIAL SECRET BALLOT For certain employees of Baxter Senior Living, LLC		
Do you wish to be represented for purposes of collective bargaining by Laborers International Union of North America (LIUNA), Local 341, affiliated with Alaska District Council of Laborers, AFL-CIO?		
MARK AN "X" IN THE SQUARE OF YOUR CHOICE		
YES <input type="checkbox"/>		NO <input type="checkbox"/>
DO NOT SIGN OR WRITE YOUR NAME OR INCLUDE OTHER MARKINGS THAT WOULD REVEAL YOUR IDENTITY. MARK AN "X" IN THE SQUARE OF YOUR CHOICE ONLY. If you make markings inside, or anywhere around, more than one square, you may request a new ballot by referring to the enclosed instructions. If you submit a ballot with markings inside, or anywhere around, more than one square, your ballot will not be counted.		
<small>The National Labor Relations Board does not endorse any choice in this election. Any markings that you may see on any sample ballot have not been put there by the National Labor Relations Board.</small>		

WARNING: This is the only official notice of this election and must not be defaced by anyone. Any markings that you may see on any sample ballot or anywhere on this notice have been made by someone other than the National Labor Relations Board, and have not been put there by the National Labor Relations Board. The National Labor Relations Board is an agency of the United States Government, and does not endorse any choice in the election.



United States of America
National Labor Relations Board



NOTICE OF ELECTION

RIGHTS OF EMPLOYEES - FEDERAL LAW GIVES YOU THE RIGHT TO:

- Form, join, or assist a union
- Choose representatives to bargain with your employer on your behalf
- Act together with other employees for your benefit and protection
- Choose not to engage in any of these protected activities
- In a State where such agreements are permitted, the Union and Employer may enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the Union that they object to the use of their payments for nonrepresentational purposes may be required to pay only their share of the Union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustment).

It is the responsibility of the National Labor Relations Board to protect employees in the exercise of these rights.

The Board wants all eligible voters to be fully informed about their rights under Federal law and wants both Employers and Unions to know what is expected of them when it holds an election.

If agents of either Unions or Employers interfere with your right to a free, fair, and honest election the election can be set aside by the Board. When appropriate, the Board provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

The following are examples of conduct that interfere with the rights of employees and may result in setting aside of the election:

- Threatening loss of jobs or benefits by an Employer or a Union
- Promising or granting promotions, pay raises, or other benefits, to influence an employee's vote by a party capable of carrying out such promises
- An Employer firing employees to discourage or encourage union activity or a Union causing them to be fired to encourage union activity
- Making campaign speeches to assembled groups of employees on company time where attendance is mandatory, within the 24-hour period before the mail ballots are dispatched
- Incitement by either an Employer or a Union of racial or religious prejudice by inflammatory appeals
- Threatening physical force or violence to employees by a Union or an Employer to influence their votes

The National Labor Relations Board protects your right to a free choice.

Improper conduct will not be permitted. All parties are expected to cooperate fully with this Agency in maintaining basic principles of a fair election as required by law.

Anyone with a question about the election may contact the NLRB Office at (206)220-6300 or visit the NLRB website www.nlr.gov for assistance.

United States of America
National Labor Relations Board

**Instructions to Eligible Employees Voting
By United States Mail**



INSTRUCTIONS

1. MARK YOUR BALLOT IN SECRET BY PLACING AN X IN THE APPROPRIATE BOX. DO NOT SIGN OR WRITE YOUR NAME OR INCLUDE OTHER MARKINGS THAT WOULD REVEAL YOUR IDENTITY.
2. IF YOU SUBMIT A BALLOT WITH MARKINGS INSIDE, OR ANYWHERE AROUND, MORE THAN ONE SQUARE, YOUR BALLOT WILL NOT BE COUNTED. YOU MAY REQUEST A NEW BALLOT BY CALLING THE REGIONAL OFFICE AT THE NUMBER BELOW.
3. IT IS IMPORTANT TO MAINTAIN THE SECRECY OF YOUR BALLOT. DO NOT SHOW YOUR BALLOT TO ANYONE AFTER YOU HAVE MARKED IT.
4. PUT YOUR BALLOT IN THE BLUE ENVELOPE AND SEAL THE ENVELOPE.
5. PUT THE BLUE ENVELOPE CONTAINING THE BALLOT INTO THE YELLOW ADDRESSED RETURN ENVELOPE.
6. SIGN THE BACK OF THE YELLOW RETURN ENVELOPE IN THE SPACE PROVIDED. TO BE COUNTED, THE YELLOW RETURN ENVELOPE MUST BE SIGNED.
7. DO NOT PERMIT ANY PARTY – THE EMPLOYER, THE UNION(S), OR THEIR REPRESENTATIVES, OR AN EMPLOYEE-PETITIONER – TO HANDLE, COLLECT, OR MAIL YOUR BALLOT.
8. MAIL THE BALLOT IMMEDIATELY. NO POSTAGE IS NECESSARY. For further information, call the Regional Office at: **206-220-6300**

TO BE COUNTED, YOUR BALLOT MUST REACH THE REGIONAL OFFICE

BY Monday, October 26, 2020

RIGHTS OF EMPLOYEES

Under the National Labor Relations Act, employees have the right:

- To self-organization
- To form, join, or assist labor organizations
- To bargain collectively through representatives of their own choosing
- To act together for the purposes of collective bargaining or other mutual aid or protection
- To refuse to do any or all of these things unless the union and employer, in a state where such agreements are permitted, enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the union that they object to the use of their payments for non representational purposes may be required to pay only their share of the union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustment).

It is the responsibility of the National Labor Relations Board to protect employees in the exercise of these rights.

The Board wants all eligible voters to be fully informed about their rights under Federal law and wants both employers and unions to know what is expected of them when it holds an election.

If agents of either unions or employers interfere with your right to a free, fair, and honest election, the election can be set aside by the Board. Where appropriate, the Board provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

The following are examples of conduct that interfere with the rights of employees and may result in the setting aside of the election:

- Threatening loss of jobs or benefits by an employer or a union
- Promising or granting promotions, pay raises, or other benefits to influence an employee's vote by a party capable of carrying out such promises
- An employer firing employees to discourage or encourage union activity or a union causing them to be fired to encourage union activity
- Incitement by either an employer or a union of racial or religious prejudice by inflammatory appeals
- Threatening physical force or violence to employees by a union or an employer to influence their votes.

The National Labor Relations Board protects your right to a free choice

Improper conduct will not be permitted. All parties are expected to cooperate fully with this Agency in maintaining basic principles of a fair election as required by law. The National Labor Relations Board as an agency of the United States Government does not endorse any choice in the election.



NATIONAL LABOR RELATIONS BOARD
an agency of the
UNITED STATES GOVERNMENT